



**TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL DOUBLE PATENTING  
REJECTION OVER A PENDING SECOND APPLICATION**

Docket Number (Optional)

SPINE 3.0-437 CIPCIPCIPCIPCON VI

In re Application of: Joseph P. Errico, Michael W. Dudasik, and Rafail Zubok

Application No.: 10/784,597

Filed: October 12, 2004

For: ARTIFICIAL INTERVERTEBRAL DISC TRIALS HAVING A CYLINDRICAL ENGAGEMENT  
SURFACE

The owner\*, SpineCore, Inc., of 100  
percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the  
statutory term of any patent granted on the instant application, which would extend beyond the expiration date of  
the full statutory term defined in 35 U.S.C. 154 to 156 and 173 as shortened by any terminal disclaimer filed prior  
to the grant of any patent granted on pending second Application Number 10/663,488,  
filed on September 16, 2003, of any patent granted on the pending second application. The owner  
agrees that any patent so granted on the instant application shall be enforceable only for and during such period  
that it and any patent granted on the second application are commonly owned. This agreement runs with any  
patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on  
the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C.  
154 to 156 and 173 of any patent granted on the second application, as shortened by any terminal disclaimer  
filed prior to the patent grant, in the event that any such granted patent: expires for failure to pay a maintenance  
fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole  
or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued,  
or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal  
disclaimer filed prior to its grant.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency,  
etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements  
made on information and belief are believed to be true; and further that these statements were made with the  
knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both,  
under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize  
the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record.

  
Signature

8/4/08  
Date

08/08/2008 HDESTA1 00000017 121095 10784597

03 FC:1814 130.00 DA

William A. Di Bianca

Typed or printed name

- ☒ The Commissioner is hereby authorized to charge the disclaimer fee under 37 CFR 1.20(d) to  
Deposit Account No. 12-1095

\*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).  
Form PTO/SB/96 may be used for making this statement. See MPEP § 324.

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on  
the date shown below with sufficient postage as First Class Mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450,  
Alexandria, VA 22313-1450.

Dated: August 4, 2008

Signature:  (William A. Di Bianca)



TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING  
REJECTION OVER A PRIOR PATENT

Docket Number (Optional)

SPINE 3.0-437 CIPCIPCIPCIPCIPCON VI

In re Application of: Joseph P. Errico, Michael W. Dudasik, and Rafail Zubok

Application No.: 10/784,597-Conf. #8309

Filed: October 12, 2004

For: ARTIFICIAL INTERVERTEBRAL DISC TRIALS HAVING A CYLINDRICAL ENGAGEMENT  
SURFACE

The owner\*, SpineCore, Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 7,223,291. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

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1. ☐ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record.

  
Signature

8/4/08  
Date

William A. Di Bianca - 58,653

Typed or printed name

- ☒ The Commissioner is hereby authorized to charge the Terminal disclaimer fee under 37 CFR 1.20(d) to Deposit Account No. 12-1095

LD-544) \*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).  
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

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(William A. Di Bianca)